

REDACTED COPY

UNITED STATES DISTRICT COURT

for the
Eastern District of Virginia

In the Matter of the Search of

*(Briefly describe the property to be searched
or identify the person by name and address)*Phone bearing the phone number [REDACTED] last
known to be a black HTC Sense cell phone, in the
possession of Kimberly Lannytte Gardner

UNDER SEAL

Case No. 4:17ms

SW 14

REDACTED COPY

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property *(identify the person or describe the property to be searched and give its location)*:

See Attachment A

located in the Eastern District of Virginia, there is now concealed *(identify the person or describe the property to be seized)*:

See Attachment B

The basis for the search under Fed. R. Crim. P. 41(c) is *(check one or more)*:

- ☒ evidence of a crime;
- ☒ contraband, fruits of crime, or other items illegally possessed;
- ☒ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section
 18 U.S.C. § 1951
 18 U.S.C. § 1951(a)
 18 U.S.C. § 924(c)(1)(A)

Offense Description
 Conspiracy to Interfere with Commerce by Robbery
 Interference with Commerce by Robbery
 Brandish a Firearm in Furtherance of a Crime of Violence

The application is based on these facts:

See affidavit

- ☒ Continued on the attached sheet.
- ☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

REVIEWED AND APPROVED:


 Megan M. Cowles
 Assistant United States Attorney

Applicant's signature

Printed name and title

Sworn to before me and signed in my presence.

Date: _____

Judge's signature

City and state: _____

Printed name and title

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Newport News Division

IN THE MATTER OF THE SEARCH)	Case No. 4:17ms
AND SEIZURE OF:)	
Phone bearing the phone number)	
[REDACTED] last known to be a black)	FILED UNDER SEAL
HTC Sense cellular phone in the possession)	
of KIMBERLY LANNYTTE GARDNER,)	
Described in Attachment A)	

AFFIDAVIT

I, Liza Ludovico, a Special Agent of the Federal Bureau of Investigation (FBI), United States Department of Justice, being duly sworn, states as follows:

INTRODUCTION

1. I make this affidavit in support of an application for a search and seizure warrant for the following cellular telephone located within the Eastern District of Virginia:

a. Phone bearing the phone number [REDACTED], last known to be a Black HTC Sense cellular phone (hereinafter TARGET TELEPHONE) (described in Attachment A).

2. Based upon my training and experience and the facts as described below, there is probable cause to believe that the TARGET TELEPHONE contains evidence pertaining to Conspiracy to Interfere with Commerce by Robbery, in violation of Title 18, United States Code, Section 1951, Interference with Commerce by Robbery, in violation of Title 18, United States Code, Section 1951(a), and Brandishing a Firearm in Furtherance of a Crime of Violence, in violation of Title 18, United States Code, Section 924(c)(1)(A). The TARGET TELEPHONE is described herein and in Attachment A, and the information to be seized is described herein and in Attachment B.

3. Your Affiant has been a sworn Special Agent of the Federal Bureau of Investigation ("FBI") for almost 15 years. Your Affiant has been assigned in that capacity as a Special Agent with the FBI since July 2002. Your Affiant has conducted numerous criminal investigations of complex violent criminal conspiracies, involving murder in violation of federal statutes including drug trafficking related murders, robberies in violation of the Hobbs Act, and murders occurring on federal enclaves. Your Affiant is assigned to the Norfolk FBI Peninsula Resident Agency, Newport News, Virginia. In this position, your Affiant is responsible for investigating various crimes, including firearms charges where a firearm has been possessed, brandished or discharged during a federal crime of violence, and other violations of the United States Code.

4. Your Affiant has personally participated in the investigation of the offenses described in this affidavit. As a result of your Affiant's participation in this investigation and a review of the reports made to your Affiant by other officers, agents, and detectives involved in the investigation, your Affiant is familiar with the circumstances of the use of a firearm during the robberies of prostitutes, in violation of Title 18, United States Code, Sections 1951, 1951(a), and 924(c).

5. The facts contained in this affidavit come from my personal observations, my training and experience, and information obtained from other agents and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

6. Based on my training and experience and the facts as set forth in this affidavit, there is probable cause to believe that evidence will be found on the TARGET TELEPHONE relevant to violations of Title 18 United States Code § 1951 (Conspiracy to Interfere with Commerce by Robbery), § 1951(a) (Interference with Commerce by Robbery), and § 924(c)(1)(A) (Brandish a

Firearm in Furtherance of a Crime of Violence), committed by KIMBERLY LANNYTTE GARDNER and CRAIG ALEXANDER BRODIE.

CASE PREDICATION

7. The investigation detailed in the following sections is predicated on two robberies that occurred in Williamsburg, Virginia and one robbery that occurred in Newport News, Virginia.

8. The FBI is conducting a criminal investigation involving multiple armed robberies of hotel clientele in Newport News, Virginia and Williamsburg, Virginia, which occurred from November 2016 to January 2017. The investigation continues in connection with possible criminal violations, including, among others, Title 18, United States Code, Sections 1951, 1951(a) and 924(c).

9. On January 13, 2017, CRAIG ALEXANDER BRODIE was taken into custody by the Newport News Police Department and charged with Robbery and Use of a Firearm in the Commission of a Felony. BRODIE is charged with committing multiple robberies in Newport News, Virginia, and Williamsburg, Virginia. In January 2017, Newport News Police Detectives requested the assistance of FBI agents.

10. On January 13, 2017, FBI Agents and a Williamsburg Police Detective interviewed BRODIE's girlfriend, KIMBERLY LANNYTTE GARDNER, in Gloucester, Virginia. During this interview, GARDNER provided her telephone number of TARGET TELEPHONE as her own.

11. On January 13, 2017, the Williamsburg Police Department executed a state search warrant on GARDNER's vehicle, a silver 2000 Oldsmobile Alero with Virginia license plate number [REDACTED]. A cellular telephone subscribed to by BRODIE was located within the vehicle and taken into evidence. Subsequent examination of the content extracted showed from BRODIE's telephone shows GARDNER and BRODIE discussing BRODIE's possession of a

firearm and possible targets to rob. During the search of GARDNER's vehicle, investigators also seized a loaded firearm and clothing resembling clothing worn by the perpetrator of the robberies, according to witnesses. One of the robbery victims told investigators she saw the robbery suspect get into the passenger side of a silver four-door sedan parked in front of the hotel after he robbed her on December 7, 2016.

12. During the course of the interview on January 13, 2017, with FBI investigators, GARDNER made inconsistent statements regarding her knowledge of BRODIE's criminal activities at and around several hotels in the Newport News and Williamsburg, Virginia area. GARDNER admitted to driving away from a hotel after BRODIE came "running out of" a hotel. GARDNER made inconsistent statements regarding her whereabouts on the evening of January 10, 2017 and January 12, 2017. After first denying being in Williamsburg, Virginia, on January 10, 2017 and January 12, 2017, GARDNER later told investigators that she drove BRODIE to Williamsburg, Virginia on the night of January 10, 2017 and January 12, 2017. She stated on January 10, 2017, that she dropped BRODIE at a Motel 6. One of the victims was robbed at gunpoint at the Motel 6 on January 10, 2017.

13. During the interview on January 13, 2017, GARDNER explained that she and BRODIE were homeless and living in motels, friend's houses, or her vehicle. GARDNER told investigators that she and BRODIE were inseparable.

14. Analysis of BRODIE's cellular phone shows a period of zero activity from December 20, 2017 to January 3, 2017. During the same period of time, cell phone records for GARDNER show an increase in activity. A high frequency call report was generated for the BRODIE phone. A high frequency call report is a report of most the frequently called numbers in the call detail records. The time period analyzed of the BRODIE call detail records was from

approximately October 2016 through approximately January 13, 2017. The most frequently called contacts in the BRODIE phone were identified as having continued telephonic contact on the GARDNER phone during the time frame between December 20, 2017 and January 3, 2017. This analysis suggests that BRODIE is using GARDNER's phone during the time frame when his phone is not in service.

15. GARDNER provided two phone numbers to investigators which she stated were her numbers. GARDNER also provided one phone number which she stated was BRODIE's number. A review of BRODIE's text message history with GARDNER show discussions about robbing prostitutes and BRODIE's possession of a firearm. BRODIE's text message (SMS report) from a cellbrite extraction obtained pursuant to a state search warrant also shows contact with three victims who were robbed on December 7, 2016, January 10, 2017, and January 12, 2017.

16. On December 20, 2016, BRODIE and GARDNER exchanged the following text messages:

BRODIE: "Lmao she scared" (Laughing my ass off she scared).
GARDNER: "Terrible lol. I hear sirens close. Hope it's almost over lol"
BRODIE: "She kept asking if I had a gun"
BRODIE: "She said I was tripping her out.."
GARDNER: "Surprise bitch lol"
GARDNER: "Is she high? Lol" (Is she high? Laughing out loud).

17. On January 12, 2017, BRODIE and GARDNER exchanged the following text messages:

BRODIE: "There another girl in Williamsburg. Quality inn on york street"
GARDNER: "Well she's getting it"
BRODIE: "Lol" (Laughing out loud).
BRODIE: "She sent a pic so its not the same one"
GARDNER: "Good lol" (Laughing out loud).
BRODIE: "Getting what"
BRODIE: "Nvm" (Nevermind)
BRODIE: "Imma take a nap all that walking me tired"
GARDNER: "Okay. I'm omw" (Okay. I'm on my way).

GARDNER: "Lotta cops out"

18. GARDNER has continued to use the TARGET TELEPHONE number to contact CRAIG BRODIE in jail calls as recent as April 11, 2017. On April 13, 2017, GARDNER told agents that she and BRODIE were homeless. In recorded jail calls to BRODIE, GARDNER has stated that she is staying in various locations in Gloucester County, Virginia. Tower data obtained related to the TARGET TELEPHONE shows that the phone is present in Gloucester County, Virginia.

19. A review of BRODIE's cellular phone content shows multiple photos to include "selfie" photos of himself, photos of robbery victims, and a photo of one of the robbery victim's driver's license.

20. Multiple robbery victims posted advertisements for prostitution on Backpage.com and Craigslist.com. These advertisements listed phone numbers for the victims. On January 12, 2017, a photo was sent from BRODIE's phone to a victim in this criminal conspiracy at her request. The photo provided to law enforcement by the victim was also recovered on BRODIE's cellular phone.

21. On April 12, 2017 a federal grand jury returned a sealed five count indictment, charging BRODIE and GARDNER with the following federal offenses: Conspiracy to Interfere with Commerce by Robbery, in violation of Title 18, United States Code, Section 1951 (Count 1), Interference with Commerce by Robbery, in violation of Title 18, United States Code, Section 1951(a) (Counts 2-4), and Brandishing a Firearm in Furtherance of a Crime of Violence, in violation of Title 18, United States Code, Section 924(c)(1)(A) (Count 5). Pursuant to the sealed indictment, a federal arrest warrant has been issued for GARDNER.

22. The evidence likely to be obtained from the cell phone includes telephone account numbers, photographs and text message conversations, multi-media messages, call logs, emails, GPS data, and internet activity relevant to this criminal conspiracy (Described in Attachment B).

CONCLUSION

23. Based on the above detailed facts, Your affiant believes there is probable cause that KIMBERLY LANNYTTE GARDNER engaged in Conspiracy to Interfere with Commerce by Robbery, in violation of Title 18, United States Code, Section 1951(a), Interference with Commerce by Robbery, in violation of Title 18, United States Code, Section 1951(a), and Brandishing a Firearm in Furtherance of a Crime of Violence, in violation of Title 18, United States Code, Section 924(c)(1)(A). It is also your affiant's belief that there is probable cause to believe that the TARGET TELEPHONE contain evidence, fruits or instrumentalities of violations of the above referenced federal offenses.

24. Accordingly, I request authority to search and seize a black HTC Sense cellular phone, with corresponding phone number, associated with KIMBERLY GARDNER, described in Attachment A.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

Liza Ludovico, Special Agent
United States Department of Justice
Federal Bureau of Investigation

Read & Reviewed:




Megan M. Cowles
Assistant United States Attorney

Sworn and subscribed to before me
On this ____ day of April 2017

United States Magistrate Judge
Newport News, Virginia

ATTACHMENT A

ITEM TO BE SEARCHED

A black HTC Sense cellular phone with a blue cover, with corresponding phone number  associated with KIMBERLY GARDNER. Special Agents (SA) of the Federal Bureau of Investigation (FBI) last observed this phone in the possession of KIMBERLY GARDNER on January 13, 2017.

ATTACHMENT B

DESCRIPTION OF ITEMS TO BE SEIZED

The items to be seized as evidence, fruits, and instrumentalities of violations of Title 18, United States Code, Sections 1951, 1951(a), and 924(c)(1)(A), include the following:

- a) Telephone account numbers;
- b) Photographs and text messages stored in the cellular phone, whether saved, sent, or received;
- c) Multi-media messages, whether saved, sent, or received;
- d) A directory of missed calls, received calls, text message drafts, and dialed calls;
- e) Voicemails and other recordings, including video, contained on the cell phone;
- f) geolocational data;
- g) Emails contained on the device;
- h) Data used to locate victims' hotels from map or GPS applications;
- i) Internet search history.